UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

TRIPLE A FIRE PROTECTION, INC.)
Respondent,)
and) Case 15-CA-11498
ROAD SPRINKLER FITTERS LOCAL UNION 669, U.A., AFL-CIO)))
Charging Party.)

CHARGING PARTY LOCAL 669'S MOTION IN SUPPORT OF COUNSEL FOR THE GENERAL COUNSEL'S MOTION FOR AFFIRMATION OF THE BOARD'S SUPPLEMENTAL DECISION AND ORDER, RENEWAL OF MOTION IN SUPPORT OF LOCAL 669'S MOTION TO STRIKE PORTION OF RESPONDENT'S ANSWER AND MOTION FOR PARTIAL SUMMARY JUDGMENT, AND RENEWAL OF OPPOSITION TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

Pursuant to the Rules and Regulations of the National Labor Relations Board ("NLRB" or "the Board"), Rule 102.24(b), 102.50 and 102.56, Charging Party Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO ("Local 669" or "the Union"), files this Motion in Support of the Counsel for the Acting General Counsel's Motion for Affirmation of the Board's January 30, 2009, Supplemental Decision and Order (*Triple A Fire Protection, Inc.*, 353 NLRB No. 88 (2009)) ("Supplemental Decision"). Local 669 urges this action in light of the United States Supreme Court's recent decision in *New Process Steel, LP v. NLRB*, 130 S.Ct. 2635 (June 17, 2010).

Indeed, the *New Process Steel* decision does not now excuse Respondent's tardy Motion for Reconsideration of the Board's Summary Judgment Decision, nor does it provide Triple A with a retroactive opportunity for a do-over of its August 18, 2008 Answer to the Third

Amended Compliance Specification. Instead, should the Board reconsider its Summary Judgment Decision in this case, it must reconsider that decision based upon Respondent's

Answer as it stood on January 30, 2009.

It is beyond dispute that Triple A's Answer improperly raised numerous affirmative defenses that had already been decided against the Respondent below; failed to adequately deny many of the allegations in the Third Amended Compliance Specification; and failed to set forth any alternative backpay calculations as required by Section 102.56(b) of the Board's Rules and Regulations. See Triple A Fire Protection, 353 NLRB slip op. at 2-4. The New Process Steel

decision does not afford Triple A the opportunity to go back in time to attempt to comply with

the Board's Rules and Regulations.

As such, Local 669 requests the Board to grant Counsel for the General Counsel's Motion and to affirm its earlier decision and order consistent with its Supplemental Decision and thereby uphold its rulings on the Motions for Partial Summary Judgment and to Strike Portions

of Respondent's Answer and its ruling denying Respondent's Motion for Summary Judgment in

its entirety.

Dated: August 19, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2010, I electronically field Local 669's Motion in Support of Counsel for the General Counsel's Motion to Affirm the Board's Decision with the National Labor Relations Board's Executive Secretary, and forwarded a copy of the brief by electronic mail to the Parties listed below:

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